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Paper No. 10

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JAN 07 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Seymour Levine :
Application No. 10/044,802 :
Filed: January 11, 2002 :
Attorney Docket No. n/a :

This is a decision on the petition under 37 CFR 1.137(b), filed December 1, 2003, to revive the above-identified application.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 13, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 14, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (2).

As to item (2), Effective November 2, 2003, the petition fee (for a small entity) as set forth in 37 CFR 1.17(m) is \$665. The petition filed in connection with the above-identified application was accompanied by payment of a fee in the amount of \$650. Accordingly, an additional fee of \$15 is required and must be submitted.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 PO Box 1450
 Alexandria, VA 22313-1450

By facsimile: (703) 872-6906
 Attn: Office of Petitions

By hand: Customer Service Window
 Crystal Plaza 2, Lobby
 2011 South Clark Place
 Room 1B03
 Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.



Latrice Bond
Paralegal Specialist
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cc: Ken Fisher
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